



**Billing Code 4310–55**

**DEPARTMENT OF THE INTERIOR**

**[FWS–R4–FHC–2014–N215; FVHC98130406900–XXX–FF04G01000]**

***Deepwater Horizon Oil Spill; Record of Decision for the Final Programmatic and Phase III Early Restoration Plan and Early Restoration Programmatic Environmental Impact Statement***

**AGENCY:** Interior.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), notice is hereby given that the Federal and State natural resource trustee agencies (Trustees) have issued a Record of Decision (ROD) for the Final Programmatic and Phase III Early Restoration Plan and Early Restoration Programmatic Environmental Impact Statement (Final Phase III ERP/PEIS). The ROD documents decisions by the Trustees under OPA: (1) selection of the Preferred Alternative for the Programmatic Early Restoration Plan; and (2) selection of 44 projects for the Final Phase III Early Restoration Plan, subject to completing remaining permitting and consultation requirements, as specifically identified in Section 9 of the ROD.

**ADDRESSES:** *Obtaining Documents:* You may download the ROD at

<http://www.gulfspillrestoration.noaa.gov> or <http://www.doi.gov/deepwaterhorizon>. You may also view the ROD at any of the public repositories listed at <http://www.gulfspillrestoration.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Nanciann Regalado at 678-296-6805 (phone) or [nanciann\\_regalado@fws.gov](mailto:nanciann_regalado@fws.gov) (email).

## **SUPPLEMENTARY INFORMATION:**

### **Background**

On April 20, 2011, BP Exploration & Production Inc. and the Trustees agreed to the Framework for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill (Framework Agreement), to provide up to \$1 billion toward early restoration projects in the Gulf of Mexico to address injuries to natural resources caused by the *Deepwater Horizon* oil spill. The Framework Agreement represents a preliminary step toward the restoration of injured natural resources. The Framework Agreement is intended to expedite the start of restoration in the Gulf in advance of the completion of the injury assessment process. The Framework Agreement provides a mechanism through which the Trustees and BP can work together “to commence implementation of early restoration projects that will provide meaningful benefits to accelerate restoration in the Gulf as quickly as practicable,” prior to the resolution of the Trustees’ natural resource damages claim.

The Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Department of Defense (DOD);<sup>1</sup>
- U.S. Environmental Protection Agency (USEPA);
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- For the State of Texas, Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

The Trustees considered hundreds of projects leading to the identification of a potential 28 future early restoration projects announced in the May 6, 2013 Federal Register notice (78 FR 26319). On June 4, 2013 (78 FR 33431), the Trustees announced their intent to prepare a Programmatic Environmental Impact Statement (PEIS) under

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<sup>1</sup> Although a trustee under OPA by virtue of the proximity of its facilities to the *Deepwater Horizon* oil spill, DOD is not a member of the Trustee Council and does not participate in Trustee decision-making.

OPA and NEPA to evaluate the environmental consequences of early restoration project types, as well as to propose a Phase III Early Restoration Plan to address injuries from the *Deepwater Horizon* oil spill that would include the 28 early restoration projects announced in the May 6, 2013, Federal Register notice and potentially additional early restoration projects. In accordance with NEPA, the Trustees conducted scoping to identify the concerns of the affected public, Federal agencies, States, and Indian tribes; to involve the public in the decision making process; to facilitate efficient early restoration planning and environmental review; to define the issues and alternatives that would be examined in detail; and to save time by ensuring that draft documents adequately address relevant issues. A scoping process reduces paperwork and delay by ensuring that important issues are considered early in the decision making process. To gather public input, the Trustees hosted six public meetings and accepted written comment electronically and via U.S. mail during the scoping period.

A notice of availability of the Draft Programmatic and Phase III Early Restoration Plan and Draft Early Restoration Programmatic Environmental Impact Statement (Draft Phase III ERP/PEIS) was published in the Federal Register on December 6, 2013 (78 FR 73555). The Draft Phase III ERP/PEIS considered programmatic alternatives for early restoration and proposed alternatives for 44 early restoration projects in Phase III of early restoration consistent with the project types included in the proposed programmatic alternative. The Trustees provided the public with 75 days to review and comment on the Draft Phase III ERP/PEIS (including a 15-day extension of the original announced 60-day comment period). To facilitate public participation, the Trustees also held public meetings in Mobile, Alabama; Long Beach, Mississippi; Belle Chasse,

Thibodaux, and Lake Charles, Louisiana; Port Arthur, Galveston, and Corpus Christi, Texas; and Pensacola, Florida. The Trustees considered the public comments received, which informed the Trustees' analyses of programmatic alternatives and specific early restoration projects in the Final Phase III ERP/PEIS. A summary of the public comments received and the Trustees' responses to those comments are found in Chapter 13 of the Final Phase III ERP/PEIS.

A notice of availability of the Final Phase III ERP/PEIS was published in the Federal Register on June 26, 2014 (79 FR 36328). The Final Phase III ERP/PEIS proposed early restoration programmatic alternatives and evaluated the potential environmental effects and cumulative effects of those alternatives. The Final Phase III ERP/PEIS also proposed 44 projects as described in the Final Phase III ERP/PEIS, totaling an estimated cost of approximately \$627 million.

Upon the completion of the Final Phase III ERP/PEIS, a Record of Decision (ROD) has been prepared. The ROD documents decisions by the Trustees under OPA: (1) selection of the Preferred Alternative for the Programmatic Early Restoration Plan; and (2) selection of 44 projects for the Final Phase III Early Restoration Plan, subject to completing remaining permitting and consultation requirements, as specifically identified in Section 9 of the ROD. The Trustees' selection of the 44 early restoration projects for the Final Phase III ERP/PEIS continues the process of using early restoration funding to restore natural resources, and ecological services, and to compensate for recreational use services injured or lost as a result of the *Deepwater Horizon* oil spill.

These projects are not intended to, and do not fully address all injuries caused by the spill or provide the extent of restoration needed to make the public and the

environment whole. The Trustees anticipate that additional early restoration projects will be proposed as the early restoration process continues.

### **Administrative Record**

An Administrative Record has been established and can be viewed electronically at <http://www.doi.gov/deepwaterhorizon/adminrecord/index.cfm>.

### **Authorities**

The authorities for this action are the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*), the implementing Natural Resource Damage Assessment regulations found at 15 CFR part 990, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and the Framework Agreement.

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